

## Department of Justice

## § 115.113

### § 115.88 Data review for corrective action.

(a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

- (1) Identifying problem areas;
  - (2) Taking corrective action on an ongoing basis; and
  - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (c) The agency's report shall be approved by the agency head and made readily available to the public through its Web site or, if it does not have one, through other means.
- (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

### § 115.89 Data storage, publication, and destruction.

- (a) The agency shall ensure that data collected pursuant to § 115.87 are securely retained.
- (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its Web site or, if it does not have one, through other means.
- (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.
- (d) The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

## AUDITS

### § 115.93 Audits of standards.

The agency shall conduct audits pursuant to §§ 115.401 through 115.405.

## Subpart B—Standards for Lockups

### PREVENTION PLANNING

### § 115.111 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.

- (a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct.
- (b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its lockups.

### § 115.112 Contracting with other entities for the confinement of detainees.

- (a) A law enforcement agency that contracts for the confinement of its lockup detainees in lockups operated by private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.
- (b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

### § 115.113 Supervision and monitoring.

- (a) For each lockup, the agency shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect detainees against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, agencies shall take into consideration:
- (1) The physical layout of each lockup;
  - (2) The composition of the detainee population;

(3) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and

(4) Any other relevant factors.

(b) In circumstances where the staffing plan is not complied with, the lockup shall document and justify all deviations from the plan.

(c) Whenever necessary, but no less frequently than once each year, the lockup shall assess, determine, and document whether adjustments are needed to:

(1) The staffing plan established pursuant to paragraph (a) of this section;

(2) Prevailing staffing patterns;

(3) The lockup's deployment of video monitoring systems and other monitoring technologies; and

(4) The resources the lockup has available to commit to ensure adequate staffing levels.

(d) If vulnerable detainees are identified pursuant to the screening required by § 115.141, security staff shall provide such detainees with heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible.

**§ 115.114 Juveniles and youthful detainees.**

Juveniles and youthful detainees shall be held separately from adult detainees.

**§ 115.115 Limits to cross-gender viewing and searches.**

(a) The lockup shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

(b) The lockup shall document all cross-gender strip searches and cross-gender visual body cavity searches.

(c) The lockup shall implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent cir-

cumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.

(d) The lockup shall not search or physically examine a transgender or intersex detainee for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(e) The agency shall train law enforcement staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex detainees, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

**§ 115.116 Detainees with disabilities and detainees who are limited English proficient.**

(a) The agency shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An